

MEDICAL CANNABIS HEALTH ORDINANCE SUMMARY

PURPOSE

The proposed Ordinance provides for the enforcement of California laws and regulations pertaining to medical cannabis dispensaries and edible medical cannabis product manufacturing sites, and establishes local requirements as authorized by the 2016 Medical Cannabis Regulation and Safety Act.

Although, edible medical cannabis products are defined as “not a food” in Health and Safety code, similar to how these products are managed in other states, Sonoma County is proposing that all edible medical cannabis products sold at medical cannabis dispensaries or manufactured at edible medical cannabis product manufacturing sites comply with the requirements of Health and Safety Code Section 113700 et seq. and other applicable food safety code, which provides a system of prevention and overlapping safeguards designed to minimize foodborne illness, ensure employee health, demonstrate industry manager knowledge, ensure safe food preparation practices and delineate acceptable levels of sanitation. Staff, therefore, recommend the addition of Medical Marijuana Dispensaries and Edible Medical Cannabis Product Manufacturing Facilities as subject to the provisions of the Sonoma County Code Chapter 14 - Health and Sanitation.

KEY DEFINITIONS

“Dispensary” or “Medical Cannabis Dispensary” means a facility operated in accordance with state law, where medical cannabis, medical cannabis products or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, medical cannabis and medical cannabis products as part of retail sale.

“Edible Cannabis Manufacturing Site” refers to the site where a “Manufacturer” produces, prepares, or propagates “Edible Cannabis Products.”

“Edible Cannabis Product” means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including but not limited to chewing gum. An edible medical cannabis product is not considered food as defined by Section 109935 of Health and Safety Code or a drug as defined by Section 109925 of the Health and Safety Code.

“Manufacturer” means a person that conducts the production, preparation, propagation or compounding of “manufactured cannabis” or medical cannabis products, that holds a valid state license pursuant to this chapter, and that holds all applicable local licenses and/or permits.

MEDICAL CANNABIS DISPENSARY AND EDIBLE MEDICAL CANNABIS PRODUCT MANUFACTURING SITE PERMITS

Staff recommends that no medical cannabis dispensary or edible medical cannabis product manufacturing site shall operate in Sonoma County without a valid health permit. A permit will not be issued until an inspection confirms that applicants meet the specifications and conform to the provisions

of Sonoma County Code Chapters 14 and 26, and the 2016 Medical Cannabis Regulation and Safety Act. The permitting process will be coordinated with Sheriff's Department, PRMD, Fire and Emergency Services, Agricultural Commissioner's Office and other appropriate agencies. Permits are valid only for the person, location and activity approved and require annual renewal.

FEES

Each location of business must obtain a separate health permit and submit the associated fee. The fee is calculated to recover the reasonable regulatory cost of program administration and enforcement of the ordinance.

KEY PROVISIONS

Dispensary Operations

Dispensaries will be required to adhere to the following practices to ensure the safety of the public and environment. These include but are not limited to:

- Medical cannabis dispensaries may only sell or distribute cannabis to qualified patients or caregivers;
- Consumption of medical cannabis, including smoking or ingesting, on the premises of the dispensary or within twenty-five feet will be prohibited;
- Permitted dispensaries will be allowed to deliver medical cannabis to patients only, mobile dispensaries are prohibited;
- Only cannabis manufactured, processed, tested, and tracked in the state of California (that has not left the state before arriving at the medical cannabis dispensary) can be sold or distributed
- Dispensaries cannot be permitted or operate as a food facility, an alcohol retailer or a tobacco retailer.
- Dispensaries cannot offer free samples or utilize discounting practices including the use of coupons, discounts on multiple purchases, and provision of a free or discounted item in consideration of purchase of another product.

Edible Cannabis Product Manufacturing Operations

Edible Cannabis Product Manufacturing Site Operations will be required to adhere to the following practices to ensure the safety of the public and environment. These include but are not limited to:

- Only cannabis manufactured, processed, tested, and tracked in the state of California (that has not left the state before arriving at the medical cannabis dispensary) can be sold or distributed.
- No manufactured edible cannabis products shall be produced that contain other addictive substances such as nicotine or caffeine. Minimal amounts of alcohol, in as much as are residual from manufacturing or required solvents for the cannabis containing product, are allowed.
- Edible Cannabis Manufacturing Operations cannot be permitted or operate as a wholesale food manufacturer, retail food facility or cottage food producer.

Edible Cannabis Products

In order to insure product safety, staff recommend that dispensaries and manufacturing sites that produce, sell or distribute edible cannabis products comply with and are subject to the provisions of all relevant state and local laws regarding the preparation, distribution, and sale of food. This includes standards related to hygiene, handling, packaging and time-temperature controls.

Labeling

Presently, medical cannabis is legal in California for treatment of symptoms associated with medical conditions and therefore, should have similar labeling requirements to prescription and/or over-the-counter (OTC) medications.ⁱ In addition, packaging strategies should reduce the risk of accidental cannabis exposure among children by not appealing to youth. Staff recommend the following provisions for medical cannabis products:

- All medical cannabis product labels include the manufacture date and source and identify the source and date of cultivation and manufacturer.
- All medical cannabis product labels contain the following warnings: “Product contains medical cannabis” and “Keep out of reach of children and animals,” “For medical use only” “The intoxicating effects of this product may be delayed by up to two hours”
- All medical cannabis product labels list pharmacologically active ingredients; the THC and other cannabinoid amount in milligrams per serving, servings per package, and the THC and other cannabinoid amount in milligrams for the package total.
- All edible cannabis products contain a warning label if nuts or other known allergens are used.
- Manufactured edible cannabis products are in an opaque and tamper-resistant package without pictures of the product.
- Medical cannabis packages and labels cannot be made to be attractive to youth and children, i.e. no cartoon characters.

Advertising

Research on similar products such as tobacco and alcohol, has shown that the aggressive marketing, product packaging, and promotion tactics have heavily targeted the youth market.ⁱⁱ Youth are particularly susceptible to marketing and consequently there should be additional protections regarding youth exposure.ⁱⁱⁱ Staff recommend:

- All advertisements must include language stating "Only individuals with legally recognized Medical Cannabis Identification Cards or a verifiable, written recommendation from a physician for medical cannabis may obtain cannabis from medical cannabis dispensaries
- Advertisements may not cater to youth or children
- Advertisements may not be placed in locations that cater to youth or children

Enforcement and Closure

The Ordinance provides for administrative penalties and a hearing process. In addition, it authorizes the director, should an imminent health hazard be found that cannot be immediately remediated, to temporarily suspend the permit and order the medical cannabis dispensary or edible medical cannabis product manufacturer immediately closed.

Reporting

At least biennially, commencing in January 2019, the Director shall make a report to the Board of Supervisors that provides a status of current dispensary and manufacturing operations, implementation of the ordinance, levels of compliance, health and safety data and impacts, and concerns in order to inform considerations regarding potential changes to the County Code.

ⁱU.S. Department of Health and Human Services Food and Drug Administration Center for Drug Evaluation and Research (CDER) Center for Biologics Evaluation and Research (CBER),

<http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm>

ⁱⁱ U.S. Department of Health and Human Services. 2012. Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health www.surgeongeneral.gov/library/reports/preventingyouth-tobacco-use/full-report.pdf.

ⁱⁱⁱU.S. Department of Health and Human Services. 2012. Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health www.surgeongeneral.gov/library/reports/preventingyouth-tobacco-use/full-report.pdf.